

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

United States of America

vs.

(1) David Padilla-Gaytan

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NO: DR:24-CR-02107(1)-AM

FINDINGS OF FACT AND RECOMMENDATION

TO THE HONORABLE ALIA MOSES, CHIEF UNITED STATES DISTRICT JUDGE:

This case has been referred by a general order to the undersigned United States Magistrate Judge for the taking of a felony guilty plea. 28 U.S.C. § 636(b)(3); *United States v. Dees*, 125 F.3d 261 (5th Cir. 1997).

On October 29, 2024, the Defendant and counsel appeared before the undersigned who addressed the Defendant personally in open court. The undersigned informed the Defendant that he had a right to have his plea taken by the United States District Judge and admonished him as provided in Rule 11 of the Federal Rules of Criminal Procedure.

The undersigned finds as follows:

- 1) The Defendant, with the advice of his counsel, has consented to the taking of his guilty plea by the undersigned. Sentencing will be conducted by the presiding United States District Judge;
- 2) The Defendant understood the nature of the charges and penalties;
- 3) The Defendant understood his constitutional and statutory rights and freely and voluntarily waived them;
- 4) The Defendant pled guilty to Count One of the indictment, illegal reentry into the United States in violation of 8 U.S.C. § 1326, without a plea agreement;
- 5) The Defendant's plea was made freely and voluntarily;

- 6) The Defendant is competent to enter this plea of guilty;
- 7) There is a sufficient factual basis for this Defendant's guilty plea;
- 8) The Defendant is hereby found guilty of the charge he pled guilty to; and
- 9) The Defendant acknowledges that he may be subject to restitution.

RECOMMENDATION

It is therefore the recommendation of the undersigned that the Defendant's guilty plea be **ACCEPTED** and that a judgment of guilt be entered against the Defendant.

NOTICE

The parties may wish to file objections to the above recommendations. Failure to file written objections to the findings and recommendations contained in this Report and Recommendation within 14 days from the date of its receipt shall bar an aggrieved party from receiving *de novo* review by the District Court of the findings and recommendations contained herein, *see* 28 U.S.C. § 636(b)(1)(c), and shall bar an aggrieved party "except on grounds of plain error from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court." *See Douglass v. United Servs. Auto Ass 'n*, 79 F.3d 1415, 1429 (5th Cir. 1996).

The Clerk shall promptly deliver copies of this Report and Recommendation to all parties and their counsel.

This case is referred to the presiding United States District Judge for sentencing.

Signed this 29th day of October, 2024



JOSEPH A CORDOVA
UNITED STATES MAGISTRATE JUDGE